

**VIA E-MAIL**

March 10, 2004

Ms. Jennifer J. Johnson  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551

**Re: Regulation CC; Docket R-1176  
Availability of Funds and Collection of Checks**

Dear Ms. Johnson:

On behalf of Mid-America Payment Exchange ("MPX"), I respectfully submit this response to the Federal Reserve Board (the "Board") on proposed regulations ("Proposal") to amend Regulation CC to implement the Check Clearing for the 21<sup>st</sup> Century Act ("Check 21 Act"). Our response supplements a joint financial services industry response ("Industry Response") that MPX supports and has signed. This response from MPX supplements the Industry Response.

MPX is a not-for-profit association that provides payments system education, support and industry leadership to over 1,900 financial institutions in Arkansas, Indiana, Kansas, Missouri, Nebraska, Oklahoma, Southern Illinois, Southwestern Iowa and Western Kentucky.

**1. Indorsement Standards: Appendix D**

Current appendix D requires a depository bank to include its name and location in its indorsement. ANS X9.37 does not include this data in an electronic depository bank indorsement record, and the Board therefore proposes to permit but not require the inclusion of the depository bank's name and location in its indorsement.

We recommend that Appendix D continue to require a depository bank to include its name in its indorsement. This information is valuable when conducting research on an item.

**2. Section 229.52 Substitute Check Warranties**

Section 5(2) of the Check 21 Act establishes a warranty against presenting both the original check and a substitute of the original check. The Proposal seeks comment as to whether using information from a check to create an ACH debit entry should be a payment request covered by this warranty.

MPX believes strongly that the Section 5(2) warranty should not apply to a duplicate payment resulting from an ACH debit. The matter of duplicate payment resulting from an ACH debit is adequately addressed in the NACHA Rules, which contain a comparable warranty and require prompt recrediting of the Receiver's account in situations where an ACH debit and a source document (i.e., check or its substitute) are presented for payment.

### **3. Model Consumer Education Document**

As indicated in the Industry Response, which MPX signed along with numerous other organizations, we believe the model consumer education document in the Proposal is too long. We advocate a brief, clear message to consumers, which will hopefully encourage them to read the information provided. Education information that is too long is likely to create confusion and cause consumers to discard the information without giving it appropriate consideration.

### **4. Remotely-Created Demand Drafts**

The Board seeks comment on whether to incorporate into Regulation CC the latest NCCUSL amendments to UCC 3 & § relating to remotely-created demand drafts. MPX strongly supports adding an authorization warranty for remotely-created demand drafts to Regulation CC, thereby establishing a warranty that would apply uniformly across the check collection system, regardless of state.

We also support the comment in the Industry Response that the final rule on the authorization warranty for remotely-created demand drafts apply to all demand drafts, not just drafts drawn on consumer accounts; and that the item is authorized according to all the terms of the item, not just the amount.

MPX appreciates the opportunity to comment on the proposed amendments to Regulation CC. If you have any questions regarding our comments, please feel free to contact me at 816.474.5630, or via e-mail at [ann-marie@mpx.org](mailto:ann-marie@mpx.org).

Sincerely,

Ann-Marie Bartels  
President & CEO